

§ 740.15

15 CFR Ch. VII (1–1–07 Edition)

under this License Exception as unaccompanied baggage to Country Groups D:1, D:2, D:3, D:4, or E:1. (*See* Supplement No. 1 of this part).

(e) *Special provisions: shotguns and shotgun shells.* (1) A United States citizen or a permanent resident alien leaving the United States may export or reexport shotguns with a barrel length of 18 inches or over and shotgun shells under this License Exception, subject to the following limitations:

(i) Not more than three shotguns may be taken on any one trip.

(ii) The shotguns and shotgun shells must be with the person's baggage but they may not be mailed.

(iii) The shotguns and shotgun shells must be for the person's exclusive use for legitimate hunting or lawful sporting purposes, scientific purposes, or personal protection, and not for resale or other transfer of ownership or control. Accordingly, except as provided in (e)(2) of this section, shotguns may not be exported permanently under this License Exception. All shotguns and unused shotgun shells must be returned to the United States. Note that since certain countries may require an Import Certificate or a U.S. export license before allowing the import of a shotgun, you should determine the import requirements of your country of destination in advance.

(2) A nonresident alien leaving the United States may export or reexport under this License Exception only such shotguns and shotgun shells as he or she brought into the United States under the provisions of Department of Treasury Regulations (27 CFR 178.115(d)).

(f) *Special provisions: encryption commodities and software subject to EI controls on the Commerce Control List.* (1) A U.S. citizen or permanent resident alien of the United States as defined by 8 U.S.C. 1101(a)(20) may use this license exception to export or reexport encryption commodities and software to any destination not in Country Group E:1 of Supplement No. 1 of this part.

(2) A person other than a U.S. citizen or permanent resident alien of the United States as defined by 8 U.S.C. 1101(a)(20) (except a national of a country listed in Country Group E:1 of Sup-

plement No. 1 of this part who is not a U.S. citizen or permanent resident alien of the United States) may also use this license exception to export or reexport encryption commodities and software to any destination not in Country Group E:1 of Supplement No. 1 of this part.

(g) *Special provision: Cuba.* Baggage taken by individuals leaving the United States for travel to Cuba pursuant to this License Exception is limited to 44 pounds per traveler, except if authorized by the Office of Foreign Assets Control of the Department of the Treasury to engage in travel-related transactions pursuant to a general or specific license in one of the following categories: 31 CFR 515.562 (official business of the U.S. government, foreign governments, and certain intergovernmental organizations), 31 CFR 515.563 (journalistic activity), 31 CFR 515.566 (religious activities), 31 CFR 515.574 (support for the Cuban people), 31 CFR 515.575 (humanitarian projects), or 31 CFR 515.545 (exportation, importation, or transmission of informational material). In calculating the 44 pound limit, the following commodities shall be excluded: wearing apparel and articles of personal adornment worn by the traveler while traveling to Cuba, personal safety and medical commodities for use by the traveler including wheelchairs, walkers, canes, crutches, portable medical devices (*e.g.*, oxygen tanks), and child safety seats and strollers for use by a child traveler.

NOTE: Other travelers seeking to take more than 44 lbs of baggage would require a license from BIS pursuant to § 746.2 of the EAR.

[61 FR 12768, Mar. 25, 1996. Redesignated at 61 FR 64274, Dec. 4, 1996. Redesignated at 61 FR 68579, Dec. 30, 1996, and amended at 62 FR 25458, May 9, 1997; 63 FR 50522, Sept. 22, 1998; 64 FR 17973, Apr. 13, 1999; 68 FR 35784, June 17, 2003; 69 FR 34567, June 22, 2004; 71 FR 30284, May 26, 2006]

§ 740.15 Aircraft and vessels (AVS).

This License Exception authorizes departure from the United States of foreign registry civil aircraft on temporary sojourn in the United States and of U.S. civil aircraft for temporary sojourn abroad; the export of equipment and spare parts for permanent

use on a vessel or aircraft; and exports to vessels or planes of U.S. or Canadian registry and U.S. or Canadian Airlines' installations or agents. Generally, no License Exception symbol is necessary for export clearance purposes; however, when necessary, the symbol "AVS" may be used.

(a) *Aircraft on temporary sojourn*—(1) *Foreign registered aircraft.* An operating civil aircraft of foreign registry that has been in the United States on a temporary sojourn may depart from the United States under its own power for any destination, provided that:

(i) No sale or transfer of operational control of the aircraft to nationals of a destination in Country Group E:1 (see Supplement No. 1 to this part) has occurred while in the United States;

(ii) The aircraft is not departing for the purpose of sale or transfer of operational control to nationals of a destination in Country Group E:1 (see Supplement No. 1 to this part); and

(iii) It does not carry from the United States any item for which an export license is required and has not been granted by the U.S. Government.

(2) *U.S. registered aircraft.* (i) A civil aircraft of U.S. registry operating under an Air Carrier Operating Certificate, Commercial Operating Certificate, or Air Taxi Operating Certificate issued by the Federal Aviation Administration or conducting flights under operating specifications approved by the Federal Aviation Administration pursuant to 14 CFR part 129 of the regulations of the Federal Aviation Administration, may depart from the United States under its own power for any destination, provided that:

(A) The aircraft does not depart for the purpose of sale, lease or other disposition of operational control of the aircraft, or its equipment, parts, accessories, or components to a foreign country or any national thereof;

(B) The aircraft's U.S. registration will not be changed while abroad;

(C) The aircraft is not to be used in any foreign military activity while abroad; and

(D) The aircraft does not carry from the United States any item for which a license is required and has not been granted by the U.S. Government.

(ii) Any other operating civil aircraft of U.S. registry may depart from the United States under its own power for any destination, except to a destination in Country Group E:1 (see Supplement No. 1 to this part) (flights to these destinations require a license), provided that:

(A) The aircraft does not depart for the purpose of sale, lease or other disposition of operational control of the aircraft, or its equipment, parts, accessories, or components to a foreign country or any national thereof;

(B) The aircraft's U.S. registration will not be changed while abroad;

(C) The aircraft is not to be used in any foreign military activity while abroad;

(D) The aircraft does not carry from the United States any item for which an export license is required and has not been granted by the U.S. Government; and

(E) The aircraft will be operated while abroad by a U.S. licensed pilot, except that during domestic flights within a foreign country, the aircraft may be operated by a pilot currently licensed by that foreign country.

(3) *Criteria.* The following nine criteria each must be met if the flight is to qualify as a temporary sojourn. To be considered a temporary sojourn, the flight must not be for the purpose of sale or transfer of operational control. An export is for the transfer of operational control unless the exporter retains each of the following indicia of control:

(i) *Hiring of cockpit crew.* Right to hire and fire the cockpit crew.

(ii) *Dispatch of aircraft.* Right to dispatch the aircraft.

(iii) *Selection of routes.* Right to determine the aircraft's routes (except for contractual commitments entered into by the exporter for specifically designated routes).

(iv) *Place of maintenance.* Right to perform or obtain the principal maintenance on the aircraft, which principal maintenance is conducted outside a destination in Country Group E:1 (see Supplement No. 1 to this part), under the control of a party who is not a national of any of these countries. (The

minimum necessary in-transit maintenance may be performed in any country).

(v) *Location of spares.* Spares are not located in a destination in Country Group E:1 (see Supplement No. 1 to this part).

(vi) *Place of registration.* The place of registration is not changed to a destination in Country Group E:1 (see Supplement No. 1 to this part).

(vii) No transfer of technology. No technology is transferred to a national of a destination in Country Group E:1 (see Supplement No. 1 to this part), except the minimum necessary in transit maintenance to perform flight line servicing required to depart safely.

(viii) *Color and logos.* The aircraft does not bear the livery, colors, or logos of a national of a destination in Country Group E:1 (see Supplement No. 1 to this part).

(ix) *Flight number.* The aircraft does not fly under a flight number issued to a national of a destination in Country Group E:1 (see Supplement No. 1 to this part) as such a number appears in the Official Airline Guide.

(4) *Reexports.* Civil aircraft legally exported from the United States may be reexported under this section, provided the restrictions described in this paragraph (a) are met.

(b) *Equipment and spare parts for permanent use on a vessel or aircraft, and ship and plane stores—*(1) *Vessel.* Equipment and spare parts for permanent use on a vessel, when necessary for the proper operation of such vessel, may be exported or reexported for use on board a vessel of any registry, except a vessel registered in Country Group D:1 (see Supplement No. 1 to part 740), Cuba, or owned or controlled by, or under charter or lease to any of these countries or their nationals. In addition, other equipment and services for necessary repair to fishing and fishery support vessels of Country Group D:1 may be exported for use on board such vessels when admitted into the United States under governing international fishery agreements.

(2) *Aircraft.* Equipment and spare parts for permanent use on an aircraft, when necessary for the proper operation of such aircraft, may be exported or reexported for use on board an air-

craft of any registry, except an aircraft registered in, owned or controlled by, or under charter or lease to a country included in Country Group D:1, Cuba, or a national of any of these countries.

(3) *Ship and plane stores.* Usual and reasonable kinds and quantities of the following commodities may be exported for use or consumption on board an aircraft or vessel of any registry during the outgoing and immediate return flight or voyage. (Note that fuel and related commodities that qualify as ship or plane stores as described in this License Exception must be exported under the short supply License Exception SPR (see § 754.2(h) of the EAR.)

(i) Deck, engine, and steward department stores, provisions, and supplies for both port and voyage requirements;

(ii) Medical and surgical supplies;

(iii) Food stores;

(iv) Slop chest articles;

(v) Saloon stores or supplies.

(c) *Shipments to U.S. or Canadian vessels, planes and airline installations or agents—*(1) *Exports to vessels or planes of U.S. or Canadian registry.* Export may be made of the commodities set forth in paragraph (c)(3) of this section, for use by or on a specific vessel or plane of U.S. or Canadian registry located at any seaport or airport outside the United States or Canada except a port in Cuba or Country Group D:1 (excluding the PRC), (see Supplement No. 1 to part 740) provided that such commodities are all of the following:⁶

(i) Ordered by the person in command or the owner or agent of the vessel or plane to which they are consigned;

(ii) Intended to be used or consumed on board such vessel or plane and necessary for its proper operation;

(iii) In usual and reasonable kinds and quantities during times of extreme need; and

(iv) Shipped as cargo for which a Shipper's Export Declaration (SED) or Automated Export System (AES) record is filed in accordance with the requirements of the Foreign Trade Statistics Regulations (15 CFR part 30), except that an SED or AES record is not required when any of the commodities,

⁶Where a validated license is required, see §§ 748.2 and 748.4(g) of the EAR.

other than fuel, is exported by U.S. airlines to their own aircraft abroad for their own use.

(2) *Exports to U.S. or Canadian airline's installation or agent.* Exports of the commodities set forth in paragraph (c)(3) of this section, except fuel, may be made to a U.S. or Canadian airline's⁷ installation or agent in any foreign destination except Cuba or Country Group D:1 (excluding the PRC), (see Supplement No. 1 to part 740) provided such commodities are all of the following:

(i) Ordered by a U.S. or Canadian airline and consigned to its own installation or agent abroad;

(ii) Intended for maintenance, repair, or operation of aircraft registered in either the United States or Canada, and necessary for the aircraft's proper operation, except where such aircraft is located in, or owned, operated or controlled by, or leased or chartered to, Cuba or Country Group D:1 (excluding the PRC) (see Supplement No. 1 to part 740) or a national of such country;

(iii) In usual and reasonable kinds and quantities; and

(iv) Shipped as cargo for which a Shipper's Export Declaration (SED) or Automated Export System (AES) record is filed in accordance with the requirements of the Foreign Trade Statistics Regulations (15 CFR part 30), except that an SED or AES record is not required when any of these commodities is exported by U.S. airlines to their own installations and agents abroad for use in their aircraft operations.

(3) *Applicable commodities.* This paragraph (c) applies to the following commodities, subject to the provisions in paragraph (c)(1) and (c)(2) of this section:

NOTE TO PARAGRAPH (C)(3) OF THIS SECTION: Fuel and related commodities for shipment to vessels or planes of U.S. or Canadian registry as described in this License Exception must be shipped under the short supply License Exception SPR (see § 754.2(h) of the EAR);

(i) Deck, engine, and steward department stores, provisions, and supplies for both port and voyage requirements;

(ii) Medical and surgical supplies;

(iii) Food stores;

(iv) Slop chest articles;

(v) Saloon stores or supplies; and

(vi) Equipment and spare parts.

(d) *Vessels on temporary sojourn.* (1) *Foreign flagged vessels.* A foreign flagged vessel in the United States may depart from the United States under its own power for any destination, provided that:

(i) No sale or transfer of operational control of the vessel to nationals of a destination in Country Group E:1 (see Supplement No. 1 to this part) has occurred while in the United States;

(ii) The vessel is not departing for the purpose of sale or transfer of operational control to nationals of a destination in Country Group E:1 (see Supplement No. 1 to this part); and

(iii) The vessel does not carry from the United States any item for which a license is required and has not been granted by the U.S. Government.

(2) *U.S. flagged vessels.* A U.S. flagged vessel may depart from the United States under its own power for any destination, provided that:

(i) The vessel does not depart for the purpose of sale, lease, or transfer of operational control of the vessel, or its equipment, parts, accessories, or components, to a foreign country or any national thereof;

(ii) The vessel's U.S. flag will not be changed while abroad;

(iii) The vessel will not be used in any foreign military activity while abroad;

(iv) The vessel will not carry from the United States any item for which a license is required and has not been granted by the U.S. Government;

(v) Spares for the vessel are not located in a destination in Country Group E:1 (see Supplement No. 1 to this part);

(vi) Technology is not transferred to a national of a destination in Country Group E:1 (see Supplement No. 1 to this part), except the minimum necessary in-transit maintenance to perform servicing required to depart and enter a port safely; and

(vii) The vessel does not bear the livery, colors, or logos of a national of a destination in Country Group E:1 (see Supplement No. 1 to this part).

⁷ See Part 772 of the EAR for definitions of United States and Canadian airlines.

(3) *Criteria for temporary sojourn of vessels.* The following criteria must be met if a voyage is to be considered a temporary sojourn under this paragraph (d). To be considered a temporary sojourn, the voyage must not be for the purpose of sale or transfer of operational control. A transfer of operational control occurs unless the exporter or reexporter retains each of the following indicia of control:

(i) *Hiring of crew.* Right to hire and fire the crew.

(ii) *Dispatch of vessel.* Right to dispatch the vessel.

(iii) *Selection of routes.* Right to determine the vessel's routes (except for contractual commitments entered into by the exporter for specifically designated routes).

(iv) *Place of maintenance.* Right to perform or obtain the principal maintenance on the vessel, which principal maintenance is conducted outside a destination in Country Group E:1 (see Supplement No. 1 to this part), under the control of a party who is not a national of any of these countries. (The minimum necessary in-transit maintenance may be performed in any country).

(4) *Reexports.* Vessels subject to the EAR may be reexported under this section on temporary sojourn, provided that:

(i) The vessel does not depart for the purpose of sale, lease, or transfer of operational control of the vessel, or its equipment, parts, accessories, or components, to a foreign country or any national thereof;

(ii) The vessel's flag will not be changed while abroad;

(iii) The vessel will not be used in any foreign military activity while abroad;

(iv) The vessel will not carry any item for which a license is required and has not been granted by the U.S. Government;

(v) Spares for the vessel are not located in a destination in Country Group E:1 (see Supplement No. 1 to this part);

(vi) Technology is not transferred to a national of a destination in Country Group E:1 (see Supplement No. 1 to this part), except the minimum necessary in-transit maintenance to perform

servicing required to depart and enter a port safely; and

(vii) The vessel does not bear the livery, colors, or logos of a national of a destination in Country Group E:1 (see Supplement No. 1 to this part).

(5) No vessels may be exported or reexported under this License Exception to a country in Country Group E:1.

[61 FR 12678, Mar. 25, 1996. Redesignated and amended at 61 FR 64274, 64283, Dec. 4, 1996. Redesignated at 61 FR 68579, Dec. 30, 1996; 65 FR 38150, June 19, 2000; 66 FR 42110, Aug. 10, 2001; 68 FR 50472, Aug. 21, 2003; 69 FR 23628, Apr. 29, 2004; 70 FR 14390, Mar. 22, 2005; 70 FR 67348, Nov. 7, 2005; 71 FR 51717, Aug. 31, 2006]

§ 740.16 Additional permissive reexports (APR).

This License Exception allows the following reexports:

(a) *Reexports from Country Group A:1 and cooperating countries.* Reexports may be made from Country Group A:1 or from cooperating countries, provided that:

(1) The reexport is made in accordance with the conditions of an export authorization from the government of the reexporting country;

(2) The commodities being reexported are not controlled for NP, CB, MT, SI, or CC reasons; and

(3) The reexport is destined to either:

(i) A country in Country Group B that is not also included in Country Group D:2, D:3, or D:4; Cambodia; or Laos; and the commodity being reexported is both controlled for national security reasons and not controlled for export to Country Group A:1; or

(ii) A country in Country Group D:1 (National Security) (see Supplement No. 1 to part 740), other than Cambodia, Laos, or North Korea and the commodity being reexported is controlled for national security reasons.

(b) *Reexports to and among Country Group A:1 and cooperating countries.* Reexports may be made to and among Country Group A:1 and cooperating countries, provided that eligible commodities are for use or consumption within a Country Group A:1 (see Supplement No. 1 to part 740) or cooperating country, or for reexport from such country in accordance with other provisions of the EAR. All commodities are eligible except those controlled for